

**METROPOLITAN NASHVILLE-DAVIDSON COUNTY
TRANSPORTATION LICENSING COMMISSION**

**Minutes of
March 23, 2010**

The Metropolitan Nashville-Davidson County Transportation Licensing Commission (the "Commission") met in regular session on this date at the Metropolitan Courthouse. The Commissioners present were Chair Helen Rogers and Commissioners Mary Griffin, Tom Turner, Quenton White, and Ed Whitmore (5). Also attending were Metro Legal advisor Corey Harkey; Commission staff members Milton Bowling, Walter Lawhorn and Lisa Steelman; and Brian McQuiston, Director-Executive Secretary to the Commission.

Chair Helen Rogers called the meeting to order. She led the Pledge of Allegiance and read the Notice of Appeal statement, advising of the right to appeal decisions of the Transportation Licensing Commission.

The minutes of the February 23, 2010 meeting were approved as corrected.

TAXICAB DRIVER DISCIPLINARY HEARING: BALEKE KROMAH

Director McQuiston reported that Mr. Kromah had held a permit since August 2007. He stated that when Mr. Kromah had applied to renew his permit in September 2009 he had disclosed only one arrest – for a moving vehicle violation. The director stated that based on information from a reliable source that Mr. Kromah had been incarcerated in Rutherford County in late 2009, a TBI background check had been initiated, which revealed an undisclosed arrest in November 2008 for domestic assault and a December 2009 arrest for sexual battery by an authority figure. The director added that on March 17 Mr. Kromah had provided a copy of an expungement order, dated February 2, 2010 for the 2008 domestic assault charge. The director noted that the taxicabs ordinance required applicants to disclose all arrests on their applications; and that Mr. Kromah had not listed the November 2008 arrest on his renewal application submitted in September 2009. He also noted that under the provisions of the ordinance related to permit applications, an open charge on any sex-related offense would be sufficient to defer approval of a permit.

Mr. Kromah appeared. He explained the traffic citation disclosed on his application. He provided a copy of a letter from his attorney, which stated that the case on the December 2009 charge was still open. The letter also requested that the Commission hearing be deferred until the case could be disposed, and noted that Mr. Kromah had been advised to invoke his 5th amendment right against self incrimination.

Chair Helen Rogers asked Mr. Kromah to explain why he did not disclose the previous charge on his application. Mr. Kromah stated that the November 2008 charge was not a criminal charge, but a divorce-related issue, and that he had not been arrested. **Chair Rogers** noted that the background check showed that he had been arrested on November 30, 2008, and asked him to answer why he had not disclosed. Mr. Kromah stated that he was going through a divorce, and was under stress; and that he forgot to do it.

Commissioner Quenton White stated that he should not be asked to comment on the pending charge. **Chair Rogers** agreed, and directed that the letter from Mr. Kromah's attorney be entered into the record as an exhibit:

Carla Kent Ford
Attorney At Law

208 West Main Street
Murfreesboro, TN 37130

*Exhibit provided by
sealed letter to
Commission re: Baleke
Kromah at 3/23/10
hearing. BJK*
Phone: 615-893-3874
Fax: 615-692-0062

March 22, 2010

Transportation Licensing Commission
Metropolitan Government of Nashville
P. O. Box 196300
Nashville TN 37219-6300

Re: Baleke Kromah

Dear Sir:

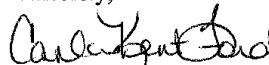
I have been retained by Baleke Kromah, but am unable to attend your scheduled meeting due to a scheduling conflict. I also represent Baleke Kromah in a criminal case currently pending in the Rutherford County Circuit Court. This indictment stems from allegations that allegedly happened sometime in 2008. He has not been convicted of these charges, therefore he is still presumed innocent.

His next court date on the criminal case is a "discussion date" scheduled for the 9th day of April, 2010 and he has a "plea date" scheduled for the 27th day of April, 2010. If we are unable to reach a satisfactory resolution by the 27th day of April, 2010, then the matter will be set for trial.

At the present time I am requesting that this matter be rescheduled until after the resolution of his criminal case. Due to the seriousness of the charges currently pending, Mr. Kromah has no alternative but to invoke his 5th amendment right against self incrimination.

If you need anything further, please do not hesitate to contact me at the above address or phone number.

Sincerely,



Carla Kent Ford
Attorney at Law

Cc: Baleke Kromah

Chair Rogers expressed concern about two charges against persons within a period of thirteen months. She asked Mr. Kromah to tell the Commission why it should not consider him to be a danger to the public. He responded that he had worked at the Los Angeles airport for years, and as a taxi driver for two years without incident. He stated that these problems were caused by his wife and divorce. **Commissioner White** stated that Mr. Kromah had not satisfactorily answered to the issue of nondisclosure, but that he would prefer to wait until Mr. Kromah could be represented by his attorney; and he moved to table the matter until the May meeting. **Commissioner Ed Whitmore** seconded. The motion failed. Following discussion, **Commissioner Mary Griffin** moved to place Mr. Kromah on probation until the court disposed of the December 2009 charges, and to require him to have his attorney keep Director McQuiston informed about the status of his case until the May meeting. **Commissioner Whitmore** seconded, and the motion passed (4-0).

APPLICATION FOR CARRIAGE DRIVER PERMIT: RUSSELL BASSETT

Director McQuiston reported that Mr. Bassett had applied for a horse-drawn carriage driver's permit on February 5. He added that after getting his drug test Mr. Bassett had called the Commission office to inform staff that he had decided not to pursue getting a permit. The director stated that the staff had received a report from the doctor's office concerning Mr. Bassett's drug test that read "Applicant has declined release of results". He stated that this raised suspicion that Mr. Bassett had tested positive for drugs, but because he had decided to withdraw his application no other action was necessary. The director reported that Mr. Bassett called later in February and said that he wanted to get the permit after all; at that time Mr. Bassett was told that he was to get the results of his February 5 drug screen forwarded to the Commission; instead, Mr. Bassett went to another clinic, where he received a negative result on his second drug screen. The director stated that Mr. Bassett had admitted that the results of the first drug screen were positive.

Mr. Bassett appeared with Johnny Smith, owner of Sugar Creek Carriages. **Chair Helen Rogers** asked Mr. Bassett to respond. Mr. Bassett stated that he did not deny using drugs; he had used marijuana in November, but had assumed that it would be out of his system by the time he got his drug screen. Mr. Bassett stated that he had understood that he was to get results of a drug test in by the 5th, so he got a new drug test. He expressed concern that the doctor's office had released a report on his first drug test; and argued that the second drug test should have been sufficient to enable him to receive a permit. He stated that he had not met Mr. Smith, nor considered getting a permit until about Christmas; otherwise he would not have used marijuana in November. He stated that he was not a regular user. Inspector Bowling noted that Mr. Bassett's background check indicated an arrest in 2006 for possession of drug paraphernalia; he asked if that was for marijuana paraphernalia. Mr. Bassett responded that it was; he had been arrested at an event.

Mr. Smith stated that he did not want drug users driving for him. He stated that he had been watching Mr. Bassett very closely for several weeks, and believed that Mr. Bassett would not be a problem if he was granted a permit. **Chair Rogers** responded that Mr. Bassett's own comments about his use of marijuana at events in 2006 and in 2009 did not give her confidence that he would not choose to use again. Mr. Smith stated that random drug testing would be appropriate. **Commissioner Ed Whitmore** asked Mr.

Bassett if he had meant that this was the only time in his life that he had used marijuana; Mr. Bassett responded that he was not making such a claim. **Commissioner Mary Griffin** noted that the Commission had only Mr. Bassett's word that the drug identified on the February 5 drug test was marijuana, and asked if it was possible for the Commission to get a copy of the results. Mr. Bassett stated that he believed it was possible. Following discussion, **Commissioner Griffin** moved to require that the results of the February 5 drug test be provided to the director; if the only drug detected was marijuana, then a permit would be granted with the following conditions:

- he would be placed on probation for one year, with mandatory random drug testing – including at least one hair follicle screen – as directed by Director McQuiston; and
- if any drug test revealed a positive result, the permit would be immediately revoked.

Commissioner Tom Turner seconded, and the motion passed (4-0).

APPLICATION FOR TAXICAB DRIVER PERMIT: ROBERT WILLIAMS

Mr. Williams appeared with Maurice Harris. Mr. Harris stated that the manager of Yellow Cab was not present, but that Mr. Williams would be driving his cab, if approved for a permit.

Director McQuiston stated that Mr. Williams had applied for a permit on February 16, and had completed all of the training and documentation requirements for a permit. He stated that Mr. Williams' background check report was 50 pages long – the most extensive report seen on any applicant to date. **Chair Helen Rogers** noted that Mr. Williams had not disclosed 39 of the arrests listed on his background check report, but had disclosed 5 arrests which did not appear on the report. She asked Mr. Williams to comment on his arrest history. He admitted to past criminal activity, and stated that he had disclosed all of his convictions, as well as recent charges which had been dismissed. He stated that he had changed, and was living differently. **Chair Rogers** explained that the Commission's first responsibility was public safety, and asked Mr. Williams why the Commission should take a chance with him. He responded that he had served time for his poor decisions in the past, and would not risk that again. He asked for an opportunity to prove himself. Mr. Harris stated that he believed Mr. Williams should have a chance. **Chair Rogers** noted that he had not had any convictions for several years. Director McQuiston asked Mr. Williams when he was last released from incarceration; Mr. Williams responded that he had been released on October 6, and had been living in the Rescue Mission.

Commissioner Quenton White noted that he had experience as a prosecutor, a defense lawyer, and a commissioner of corrections. He stated that, if the Commission did not give Mr. Williams a chance to become a productive citizen, then it negated everything rehabilitation stood for. **Commissioner Ed Whitmore** moved to approve Mr. Williams for a taxi driver permit, with a one year probation period. **Commissioner White** seconded, and the motion passed (4-0).

APPLICATION TO PERFORM NONCONSENT TOWING: FUQUA'S TOWING & RECOVERY

Director McQuiston reported that this was an application by a new general wrecker company requesting to be approved to perform nonconsent towing. He stated that Alison Fuqua had submitted an application for Fuqua's Towing & Recovery to be licensed as a general wrecker company on December 23, and had applied the same day for her initial wrecker driver permit; both had been approved. The director noted that Jonathan Fuqua, husband of the applicant, had held a wrecker driver permit until 2002. The director stated that six weeks after receiving her general wrecker license, Mrs. Fuqua had applied for approval of a license to perform nonconsent towing, and that a Final Use & Occupancy Permit for the address to be used as a wrecker company storage lot was provided on February 3.

Inspector Bowling reported that he had conducted a preliminary investigation. He stated that when Mr. Fuqua lost his TN driver's license and was unable to drive a wrecker for ALCAR (a licensed general wrecker company), Mrs. Fuqua began driving the wrecker – without a permit. He added that in her December 2009 application for an initial wrecker driver permit, Mrs. Fuqua had verified that she had 2 years' experience as a wrecker driver/helper. The inspector also reported that he had checked the proposed storage lot; and that it was the same lot where he twice had observed a converted ambulance being used by "Butch" Teffeteller to haul cars. He noted that Mr. Teffeteller, former owner of All Tow Master, had been before the Commission for nonconsent violations many times. He also expressed concern that he had heard that John "Bubba" Anderson was going to be working for Fuqua's Towing, because Mr. Anderson had previously worked for Express Towing, and then had signed to authorize nonconsent tows by Express Towing. The inspector concluded that nonconsent towing was the biggest problem area in the wrecker business.

Commissioner Mary Griffin noted that, according to her application, the whole company appeared to be Mrs. Fuqua. Mrs. Fuqua stated that she would have two drivers, but that they did not yet have their permits. **Commissioner Griffin** asked why she wanted to start a new company doing nonconsent towing. Mrs. Fuqua responded that she wanted to get everything set, including the license, in advance. She added that she knew John Anderson, and knew about the problems that had gone on before with nonconsent towing in general. She stated that Mr. Anderson was not going to be one of her drivers. Inspector Bowling stated that he was less concerned about Mr. Anderson's driving than he was about his signing tow slips. Mrs. Fuqua added that she did not know Mr. Teffeteller. **Commissioner Tom Turner** clarified that Mr. Teffeteller had been sanctioned by the Commission.

Chair Helen Rogers asked Mrs. Fuqua to consider waiting until she had some experience operating as a general wrecker service before reapplying to perform nonconsent towing. Mrs. Fuqua stated that she did not need the storage lot if she was not going to do nonconsent tows. Mrs. Fuqua stated that Mr. Anderson would not be working for her. She acknowledged that he was an old friend, but he had recently suffered a heart attack. She stated that she did remember who Mr. Teffeteller was, but that she had no dealings with him. She added that she would have applied for a wrecker driver permit two years before, if she had known that one was required; but that Buddy Carnahan at ALCAR had not required her to do so. **Commissioner Griffin** asked if she had driven a wrecker without a permit; Mrs. Fuqua responded that she had, but did not know then that a permit was required. She stated that when she decided to start her

own company she had obtained the ordinance, and had been working to meet all of the requirements before her company started towing.

Commissioner Griffin clarified that the company already had a general wrecker license, and that the only question before the Commission was whether it would approve the company to perform nonconsent towing. She expressed concern about a new company being authorized for nonconsent towing.

Following discussion, **Commissioner Quenton White** moved to table a decision on the application for six months. **Commissioner Mary Griffin** seconded, and the motion passed (4-0).

APPLICATIONS FOR GENERAL WRECKER LICENSES

JOHNSON'S TOWING:

Director McQuiston reported that Timothy Lee Johnson was applying for both a general wrecker company license and a wrecker driver permit; and that he had not yet purchased a wrecker vehicle. The director stated that the background check for his permit indicated only one offense – failure to register as an ex-convict; but that a letter from the Board of Probation and Parole refuted that charge and showed that he had been released from incarceration in October 2006. The director noted that Mr. Johnson had also disclosed arrests which did not appear on his Tennessee-only background check report. The director stated that Mr. Johnson had been very straightforward and cooperative during the application process, and that the license was for consensual tows only.

Mr. Johnson appeared. **Chair Helen Rogers** noted two 2009 moving violations disclosed on his application, and warned Mr. Johnson to be careful when operating a large vehicle like a wrecker. She asked Mr. Johnson if he was on parole; he responded that he was. She asked if there were any conditions associated with that parole; he responded that there were none. He stated that his parole was for eight years. He stated that he had served thirteen years and six months for second degree murder. **Chair Rogers** asked if a drug screen had been part of the application; Director McQuiston responded that drug screening was not part of the application process for wrecker drivers. Mr. Johnson stated that he is current employer performed random drug tests. **Commissioner Mary Griffin** stated that a new drug screen would be preferable to obtaining a copy of a previous screen. **Commissioner Tom Turner** moved to approve Mr. Johnson's applications for a general wrecker license and a wrecker driver permit, with a one year probation. **Commissioner Ed Whitmore** seconded, and the motion passed (4-0).

BARRON'S TOWING & RECOVERY:

Director McQuiston stated that Eric Barron had appeared before the Commission in January 2010, when he applied for a wrecker driver permit with Express Towing. He noted that Mr. Barron had been cited before that meeting by Inspector Bowling; and that the Commission had approved a temporary permit for six months, but had not restricted the permit to Express Towing. The director reported that Mr. Barron had submitted an application to operate his own general wrecker company on March 4. He stated that Mr. Barron's brother had also submitted an application to drive a wrecker for the new company, but that application had not been approved, as it was pending the decision on the company's license.

Inspector Bowling reported that he had issued two citations to Eric Barron when he was working for Express Towing: for operating a tow truck without a wrecker driver permit, and for being in possession of a pre-signed tow slip. The inspector stated that he had no other adverse reports or complaints concerning Mr. Barron; but he did want to understand why Mr. Barron had decided to leave Express Towing. Mr. Barron responded that he wanted to get away from all of the problems associated with nonconsent towing, and would only do consensual towing. **Commissioner Quenton White** asked Mr. Barron if he had any affiliation with any persons whose licenses had been suspended or revoked. Mr. Barron stated that he knew who some of them were, but would not have any connections with them and his company. He added that he had not been driving for Express since January.

Commissioner White moved to approve the application, with a two-year probation period. **Commissioner Mary Griffin** seconded, and the motion passed (4-0).

RECEIPT OF APPLICATION TO TRANSFER EMERGENCY WRECKER LICENSE

Director McQuiston reported that an application had been received for the transfer of the emergency wrecker zone license assigned to Cotton's Towing. The director announced that a public hearing on all applications for the zone license would be held at the next meeting.

OTHER BUSINESS:

Director McQuiston announced the resignation of Vice Chair Duane McGray, and informed the Commission that the election of a new Vice Chair would be placed on the agenda for the April meeting. Commissioners and staff members expressed appreciation for the work and support provided by Commissioner McGray during his service.

Director McQuiston notified Commissioners that the Office of Internal Audit would begin an audit of the Commission on March 24.

Director McQuiston reported that the budget proposal for FY2011 would be presented to the Mayor on March 29.

There were no further business, and the meeting was adjourned.

ATTEST:

Brian E. McQuiston
Director-Executive Secretary

APPROVED:

Helen S. Rogers
Chair